IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY
&
THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

TUESDAY, THE 10TH JULY 2007 / 19TH ASHADHA 1929

MFA.No. 650 of 2000()

OA.35/1997 of FOREST TRIBUNAL, KOZHIKODE
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APPELLANT:

N.PORMANNAN, S/O.NEELIKKAPPIL NALLAYYAKANDER,
VELLARIMALA, VYTHIRI TALUK,
WYNAD DISTRICT.

BY ADV. SRI.V.V.SURENDRAN

IMPLEADED AS RESPONDENTS:
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1. THE STATE OF KERALA,
REP.BY THE CHIEF SECRETARY,
THIRUVANANTHAPURAM.

2. THE CUSTODIAN OF VESTED FORESTS,
PALAKKAD DISTRICT, AT OLAVAKKODE.

BY SPL. GOVERNMENT PLEADER SRI.M.P.PRAKASH

THIS MISC. FIRST APPEAL HAVING BEEN FINALLY HEARD ON 10/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J.B.KOSHY & K.P.BALACHANDRAN, JJ.

M.F.A.No.650 OF 2000

Dated 10th July, 2007

JUDGMENT

Koshy,J.

Appellant filed a petition for a declaration that the two acres of land in Survey No.1200/1 is not a private forest vested in the Government under the Kerala Private Forests (Vesting and Assignment) Act, 1971. The Tribunal after considering Exts.C1 and C2 found that the green shaded property therein is full of wild growth and the area was found to be uncleared and uncultivated, but, the survey number was 1190. Ext.C3 is a periphery sketch prepared by the Surveyor where the disputed property was shown. Ext.C4 was the second report prepared with regard to the disputed property. Ext.C5 gives a clear picture regarding the survey boundary lines and the property claimed by the appellant and the adjacent property. Plot A, the measurement of which is shows as 1.36 acres, is stated to be the land now possessed by the appellant. That is almost a planted area as it now stands. Plot B, the measurement of which is 60 cents, which lies on the north-western boundary of plot A, shown in yellowish green colour is an uncleared land having wild growths and trees. This plot B corresponds to the green shaded property shown in Ext.C2 plan. Plot C is not a property involved in this case. It lies to the south of the disputed property. Ext.C1 report shows that the entire strip of land on the north-western

portion of the disputed property is covered with wild undergrowth and trees. 25 types of forest species were seen by the Tribunal. In Ext.C5, that area was separately marked by the Commissioner and shown as plot B. Of course, a building was constructed by the Forest Department. A well was also seen in plot B. Apart from that, it was a fully uncleared forest land with rare forest species aged mored than 60 years. In plot A, the Commissioner has seen only coffee plants aged about 10 years and 100 coffee plants aged about five years. However, the Tribunal found that the land was not covered by the Madras Preservation of Private Forest Act. Plot A was not a private forest vested in Government, but, with regard to plot B which is full of forest trees, is a vested forest as the property was covered with trees with various forest species. Therefore, only with regard to plot B, measuring about 60 cents, the Tribunal rejected the case. Since order of the Tribunal was based on finding of facts, we are of the opinion that no interference is required.

The appeal is dismissed.

J.B.KOSHY
JUDGE

K.P.BALACHANDRAN
JUDGE

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